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The Edinburgh Legal History Blog

The British Legal History Conference, Glasgow, 10-13 July 2013

Posted on [July 16, 2013](#) by [Karen Baston](#)

The British Legal History Conference

Music fans in Britain have Glastonbury, T in the Park, and Reading to enjoy each year. The equivalent event for legal historians, despite its only biannual occurrences, must be the British Legal History Conference.

British Legal History Conferences have been going on since 1972. This year saw the twenty-first gathering of international scholars interested in the legal history of the British Isles. The University of Glasgow's School of Law hosted the event from 10 to 13 July.

Despite being involved in legal history since late 2008, this was my first experience of what I would describe as a legal history festival. Nearly 200 delegates had [ninety academic papers](#) to choose from (including four plenary sessions), book stands from the major publishers of legal history in the UK offering their tempting wares, and receptions and dinners for networking, idea sharing, and socialising.

Conference Theme

The conference theme was 'Law and Authority'. An international group of speakers addressed this and interpreted it using a wide variety of approaches. As an early modernist with an interest in the seventeenth and eighteenth centuries, I mostly attended sessions – 30 as it happened! – focussed on these eras. The stimulating conference papers came from scholars at every stage of their careers from doctoral candidates exploring their research questions to established professors.

Any delegate could only realistically attend a third of the offerings and I will not make an attempt here to give a full description every paper I heard here. I hope only to note and, hopefully, indicate some of the flavour of the richness of the conference. My notes are not presented in any particular order (or with any critical thought) but I have tried to pull out some sub-themes. There were many more papers I would have like to have heard and I had to make some hard choices about which parallel sessions to attend.

Legal Authority

Professor John Ford's opening plenary session explored legal authority using early modern Scotland as an example. Several institutions competed for authority including the Session, the central court of Scotland which increased its jurisdiction in the early sixteenth century. Ford pointed out that George Buchanan's [Historia](#) was regularly cited in Scottish courts in the sixteenth and seventeenth centuries, that learned law was binding then, and that early modern Scottish judges interpreted statutes too much. Ford's introduction gave useful contexts for many of the papers I attended.

Law & Material Culture

The physical forms law takes emerged as a theme throughout the conference. This included the reasons for compiling an edition of 'old' Scots law in the mid-sixteenth century described by Dr Andrew Simpson to the relationships between manuscript and print in eighteenth century England detailed by Professor Paul Halliday

when Lord Mansfield ‘caused the records to be searched’. Dr Thomas J McSweeney suggested that ‘Bracton’s Note Book’ was created to harmonise civil, canon, and common law by collecting them. This followed an example set by the ecclesiastical courts fifty years before as they changed their document format from scroll to codex. Professor Paul Brand gave evidence for justices actually looking at a specific text to determine its meaning in 1298. Balanced against this was Professor Dr Peter Oestemann’s description of early modern court practice in the German courts which insisted on written documents being read aloud and being witnessed to enforce their authority.

The Uses of Authority

Professor David Ibbetson described how arguing using authorities to prove points was an integral part of English learned culture by the early seventeenth century. By the time Coke set down his list of which authorities could be applied to cases, the use of authorities to prove arguments was more firmly entrenched in law than in any other discipline.

Professor Alain Wijffels’ masterful and entertaining plenary paper on English-Hanseatic commercial law used three manuscript documents to pull together the changing legal arguments of an often troubled working relationship as the parties attempted to set limits and reduce ambiguity using legal and diplomatic mechanisms such as treaties. Professor Wijffels’ PowerPoint presentation of 80 slides gave his presentation an almost cinematic feel. It was one of my personal highlights and I plan to find out more about the Hanseatic League and its international relations as soon as possible.

The Reach of Authority

The question of where and when law has authority and how it should be interpreted was also addressed. Examples of this came from Dr Tom Green who explained how canon law was used in post-Reformation Edinburgh Consistorial Courts and Professor John Finlay who explored the use of English law in post-Union Scotland. Lukasz Jan Korporowicz’s study of appeals cases to the House of Lords in the late seventeenth and eighteenth centuries showed that the law claimed as authority depended as much on the lawyer and his background as it did on the issue concerned. This theme was also picked up in three papers on slavery by Professor Dana Rabin, Sarah Levine-Gronningstater, and Professor Patricia Hagler-Minter in their considerations of the use of English common law and Admiralty court decisions in antebellum United States courts.

The Origins of Authority

Who has authority and where does it come from? Professor Sara M Butler, Professor Krista J Kesselring, and Dr Katherine D Watson explained the working of medieval and early modern English coroners’ courts including the roles of coroners and juries. Coroners gradually lost their remit as policing services developed. Philosophers have considered the origins of authority and several papers weighted up their impact on theories of governance. Professor Dr Andreas Thier explored the natural law of Hobbes, Locke, Pufendorf, and Thomasius and their ideas about governmental authority. Professor Aniceto Masferrer considered the contributions of Rousseau to jurisprudence and Professor Dr Marcel Senn looked at the different ways Hobbes has been interpreted in different national contexts. Professor Dr Ulrike Müssig showed that, despite their philosophical origins, the new continental constitutions of the early 1830s did not result in shifts in power: the kings of France and Belgium maintained their influence.

Law & Other Disciplines

Interdisciplinary approaches strengthened the reach of the conference. Dr Clare Jackson shed new light on Sir George Mackenzie by examining the contents and contexts of his *Religio Stoici*, a plea for religious tolerance and the protection of civil society that is at odds with his reputation as ‘Bloody Mackenzie’. Dr Jennifer Wells explored

resistance to the Cromwellian regime via the courts in Ireland and Scotland. Dr Aaron Graham's study of the life and times of James Brydges, Paymaster for the British Army in the early eighteenth century, revealed that the legal fiction of false accounts and blank warrants allowed the payment system to function. Wartime conditions encouraged widespread activities, perceived as corrupt, that need to be put into a new framework.

A Tercentenary Find in the Archives

The conference happily coincided with an anniversary of interest for legal historians: the foundation of the Regius Chair of Law at Glasgow in 1713. An extra unexpected bonus was the announcement of the [discovery](#) of a manuscript related to William Forbes, the first holder of the chair. Professor Ernest Metzger, the identifier of Forbes's notes in the Glasgow University Archive, changed his presentation topic to tell us more about his find, a collection of notes that Forbes may have used to teach his course on civil law.

Legal Historians: Their Own History

The conference ended with a brace of plenary papers from Professor Sir John Baker and Professor John Hudson. Sir John entertainingly offered his memories of the early years of the British Legal History Conferences when he worked with Dafydd Jenkins to create the tradition. Professor Hudson showed how a legal historian could set about demolishing a legal positivist in his description of Maitland's negative reaction to Austin.

Tweeting

Although my efforts at Tweeting the conference were feeble due to technological problems (that is to say, a laptop battery capable of only holding enough charge for only about one session per day!), several other members of the Twitter tribe (including the Centre for Legal History's very own [@Macqueenhector](#)) were offering coverage of and comments on events as they happened. These can be found at #blhc, #blhc2013, and #blhcgl2013.

Thank you, Glasgow!

Many thanks to Professor Mark Godfrey and his colleagues at Glasgow for their excellent work in bringing people and events together with elegance.

Concluding with a dinner in the rather magnificent [Bute Hall](#) was an appropriate ending for a successful conference. Even the unusually tropical climate could not diminish the mood despite some overheating lecture rooms (from the climate outside, of course, not the learned debates inside which were civilised and friendly!). What would a British event be without having the weather as a talking point after all!

This was an enjoyable and memorable event and I hope this will only be the first of many British History Legal Conferences for this Edinburgh Legal History Blogger. I would to thank Edinburgh Law School's Disbursements Committee for funding my attendance.

The next British History Legal Conference will be held at Reading in 2015.

[Conference Programme BLHC Glasgow 2013](#)

[Conference information](#) (including list of generous sponsors)

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